

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Redevelopment of Spectrum to)	ET Docket 92-9
Encourage Innovation in the Use)	
of New Telecommunications)	RM-7981
Technologies)	RM-8004

To: The Commission

REPLY COMMENTS
OF
QUESTAR SERVICE CORPORATION

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Dated: February 12, 1993

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Questar Service Corporation ("Questar") by its attorneys, pursuant to the invitation extended by the Federal Communications Commission ("FCC" or "Commission") in its First Report and Order and Third Notice of Proposed Rule Making ("Third Notice")^{1/} in the above-referenced proceeding, respectfully submits the following Reply Comments for consideration by the Commission.

I. REPLY COMMENTS

1. In Comments filed in this proceeding Questar strongly urged the Commission to adopt a transition plan that would ensure that incumbent users forced to relocate

^{1/} 7 FCC Rcd 6886 (1992).

from current 2 GHz frequency assignments could do so without disruption to vital communication systems. For this reason, Questar supported a minimum five year voluntary period during which new technology service providers and incumbent licensees could freely negotiate the migration to new facilities. Questar is pleased to note strong support among the incumbent licensee community for a reasonable period of time in which to allow incumbents to migrate to new facilities. However, on a disturbing note, many parties seeking access to these 2 GHz frequency assignments urged the Commission to adopt a hasty schedule to vacate 2 GHz assignments, even suggesting in some cases that there be no voluntary transition period whatsoever. There was also considerable comment on the issue of what type of comparable alternate facilities must be provided to a displaced 2 GHz microwave user. These issues are of critical importance to Questar and it is pleased to have this opportunity to address these issues further in these Reply Comments.

A. Five Years is a Reasonable Period for Voluntary Negotiations

2. Questar strongly disagrees with parties who suggest that no period should be allowed for voluntary negotiations and that 2 GHz users should be moved immediately, or at a minimum within three years, if the

spectrum is needed by new technology service providers.^{2/} Questar believes this approach would be totally unreasonable. The extensive private microwave systems operating at 2 GHz are technologically complex. To insist on immediate mandatory relocation may even prolong the transition since parties will be forced into an adversarial position before having an opportunity to negotiate a voluntary arrangement for relocation. Such a policy is ill-advised and Questar urges the Commission not to adopt such a position. Questar's primary concern is that there be no disruption of its vital communication links and that it be assured that the replacement facilities will continue to perform at the same high level of reliability. It believes that market-based negotiations among the parties are most likely to quickly and satisfactorily result in the transition of systems in areas where spectrum is needed. Contrary to the fears expressed by some parties, private microwave users are unlikely to be intransigent when faced with the inevitable fact that they can be forced to relocate at the end of a voluntary negotiation period.

^{2/} See Comments of Cox Enterprises at 6; Ameritech at 3; Time-Warner at 5.

B. The Voluntary Negotiation Period Should Not Begin Until Licenses Are Issued for New Technology Systems

3. Questar disagrees with the Commission's position that the starting date for the voluntary negotiation period should begin at the date that the Commission issues a Final Order on rechannelization on the bands above 3 GHz. Again, this results in an artificial shortening of the time for voluntary negotiations since this does not coincide with the time when parties interested in obtaining spectrum now licensed to 2 GHz microwave systems would have a market incentive to negotiate.

4. This is particularly true in Questar's service area which is predominantly rural and sparsely populated. As Questar indicated, it provides distribution to over a half million customers throughout Utah and Wyoming. A transmission subsidiary brings gas to local distribution points via a pipeline network that covers a route of 2,400 miles through Utah, Wyoming, Idaho and Colorado. Questar's production subsidiaries explore and drill for natural gas throughout this four state area. Questar's 2 GHz microwave system is absolutely essential to the safe pipeline operation and natural gas production activities. Questar seriously doubts that any new technology service

provider is going to be operating in these remote and sparsely populated areas where it currently operates 2 GHz microwave facilities. Nevertheless, by not making the voluntary negotiation period coincide with when service providers enter the market, situations are likely to arise where the entire voluntary period expires before any spectrum is needed by new entrants in these more rural areas. Hence, a licensee like Questar could unexpectedly be forced into mandatory relocation. The Commission should only start the voluntary period when actual licenses are issued. The Commission must bear in mind that licensees must be able to make an orderly transition and to be assured of a protected status during any such transition. Furthermore, 2 GHz private microwave users must be able to continue to operate on their 2 GHz facilities on a primary basis indefinitely if these frequencies are not to be used by new technology service providers.

C. 2 GHz Microwave Licensees Must Be Able to Select Comparable Alternate Facilities

5. Questar is most concerned that the concept of comparable alternate facilities not allow a new technology service provider to dictate the type of facility that it is willing to provide. Questar is disturbed, for example, that several parties' comments reflect the belief that 2 GHz

microwave licensees will be unreasonable and use this opportunity to make exorbitant demands on new technology service providers.^{3/} Companies such as Questar have an overriding responsibility to ensure the safety and efficiency of their operations. This objective must be paramount in any evaluation of comparable alternate facilities. If the Commission adopts a reasonable voluntary negotiation period, the parties should be able to negotiate comparable alternative facilities acceptable to both.

6. As several parties pointed out,^{4/} it is absolutely essential that companies, such as Questar, control their communications facilities at critical locations. Entities should never be forced to accept common carrier facilities as a substitute for 2 GHz microwave facilities. Private microwave facilities are selected for certain installations for many reasons. One of the most important of these is the fact that the licensees can maintain complete control over the installation, maintenance and restoration of these facilities. A company such as Questar has its own technical staff to maintain these

^{3/} Comments of Personal Communications Network Services of New York at 7; American Personal Communications at 5-6.

^{4/} Comments of Association of American Railroads at 20; American Petroleum Institute at 17-18.

facilities in proper operating order and to repair the equipment immediately in the event of outages. Questar must not be forced to rely upon the services of a common carrier, which understandably has different priorities for maintenance and restoration when outages occur, to ensure that vital communication links are kept operational. In fact, it is the very separateness of these two systems that can minimize outage times for electric utility services in natural disasters and other occurrences where common carrier facilities are often overwhelmed handling public switched network requirements. Furthermore, much of the terrain in Questar's service area is mountainous and relatively sparsely populated, making private microwave the only suitable option. In many of these locations, of course, common carrier facilities would simply not be available or cost effective.

7. The Commission must ensure that 2 GHz microwave licensees, like Questar, continue to have control over these facilities. Questar can appreciate the concern that 2 GHz new technology providers may have about the possibility that some may see this as an opportunity to force new technology providers to pay for substantial upgrades to their facilities. Questar believes this concern is misplaced and that the overwhelming majority of users are most concerned

about continuing to have highly reliable and effective communication systems to support critical operations. This need will dictate their choices in terms of alternate facilities and Questar believes that 2 GHz microwave licensees by and large will act in a responsible way in negotiating this transition. Questar, however, looks to the Commission to ensure that parties have a free and fair opportunity to negotiate and that 2 GHz microwave users can be assured that there will be no disruption of vital services to the public.

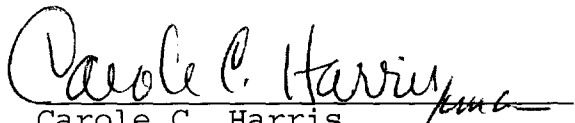
III. CONCLUSION

8. Questar's 2 GHz microwave facilities are essential to the safe pipeline and natural gas production activities. Questar understands that it may be forced to relocate to different frequencies to make way for new services in the 2 GHz microwave band. It asks only that the Commission allow for reasonable transition and assurance

that comparable facilities will be made available to it to continue to provide reliable communications throughout its service area.

Respectfully submitted,

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